

9/17/2012 2:14 pm

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LUCHIANO VISCONTI LOUTIE LLC d/b/a
LUCHIANO VISCONTI,

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

Plaintiff,
-----X
-against-

MEMORANDUM & ORDER
12-CV-4287 (JS) (ARL)

FAIRDEAL APPAREL LLC,

Defendant.

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APPEARANCES

For Plaintiff: Thomas Goodhall Bailey, Jr., Esq.
522 Fifth Avenue
New York, NY 10036

For Defendant: Alan A. Heller, Esq.
292 Madison Avenue, 20th Floor
New York, NY 10017

SEYBERT, District Judge:

Pending before the Court is Plaintiff Luchiano Visconti Loutie L.L.C.'s ("Plaintiff") Amended Complaint which asserts state law claims for breach of contract, unjust enrichment, and breach of the implied covenant of good faith and fair dealing against Defendant Fairdeal Apparel L.L.C. ("Defendant"). The Amended Complaint asserts that this Court has subject matter jurisdiction on the basis of diversity.

"Diversity jurisdiction requires that 'all of the adverse parties in a suit . . . be completely diverse with regard to citizenship,' Handelsman v. Bedford Vill. Assocs. Ltd. P'ship, 213 F.3d 48, 51 (2d Cir. 2000) (quoting E.R. Squibb &

Sons, Inc. v. Accident & Cas. Ins. Co., 160 F.3d 925, 930 (2d Cir. 1998)), and, for the purposes of diversity jurisdiction, a limited liability company has the citizenship of each of its members. See Bayerische Landesbank, N.Y. Branch v. Aladdin Capital Mgmt. L.L.C., --- F.3d ----, 2012 WL 3156441, at *5 (2d Cir. Aug. 6, 2012). Here, Plaintiff's Amended Complaint pleads that each of Plaintiff's members are citizens of New York. (Am. Compl. ¶ 1.) Therefore, Plaintiff is considered a citizen of New York. Plaintiff fails, however, to plead the citizenship of Defendant's members. This is an issue because if any of Defendant's members are New York citizens, complete diversity does not exist and this Court lacks subject matter jurisdiction. See Carden v. Arkoma Assocs., 494 U.S. 185, 195-96, 110 S. Ct. 1015, 108 L. Ed. 2d 157 (1990).

Therefore, within thirty (30) days of the date of this Memorandum and Order, Defendant is directed to file and serve: (1) a declaration setting forth the relevant facts concerning the citizenship of each of its members; and (2) documentation supporting these relevant facts.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: September 17, 2012
Central Islip, NY